

2009 Worker's Compensation Management Proposals:

The Management Representatives of the Wisconsin Worker's Compensation Advisory Council are presenting the following reform recommendations. As a guide in developing these recommendations we looked to the basic principle for the Wisconsin Worker's Compensation System, the exclusive remedy provision, as well as the basic understanding that the System is intended to provide wage replacement.

1. Provide that the exclusive remedy applies to contractors and subcontractors. If a third party action is filed, financial responsibility for the third party may not be transferred by contract or other means (indemnification, hold harmless, additional insureds, duty to defend) back to the statutory employer.
2. Institute an effective medical cost containment system (specific proposal to be presented in the near future).
3. Amend §102.17(4) to provide for barred claims, the employee must have had the prosthesis implanted prior to the statute of limitations running.
4. Eliminate payment of medical expenses or hearing aids for cases where there is no compensable hearing loss.
5. Provide that permanent total disability benefits cease once an employee begins to collect social security retirement benefits. The intent is to try and find resources available in the system to increase supplemental benefits.
6. Provide a report on the status of the Second Injury Fund including payments for hearing aids where there has been a previously compromised claim.
7. Eliminate death benefit payments for employees who are permanently and totally disabled and who die from causes not related to the work injury.
8. Require that bad faith claims state the basis for the claim with reasonable specificity and have the Department staff conduct an initial review of such claims to determine if there is probable cause for the claim to proceed.
9. Limit Perm Total Benefits to cases where, due to the severity of their injury, claimants are unable to perform any work (statutory perm totals). All other claims would be treated as loss of earning capacity. Increase PTD rates to six-year lag level and index for inflation.
10. Disallow disability benefits for individuals that are not legally able to work.